

Message Text

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SUBJECT: DRAFT ITALIAN ABORTION LAW

1. SUMMARY: DURING THE LAST TWO MONTHS OF 1975 THERE WAS INTENSE PUBLIC DEBATE ON THE ABORTION ISSUE. ON DEC. 17, A PARLIAMENTARY COMMITTEE APPROVED A BILL TO LEGALIZE ABORTION. THE ISSUE IS COMPLEX BUT VERY IMPORTANT IN THE PRESENT ITALIAN POLITICAL CONTEXT. IT IS FULL OF POLITICAL DANGERS. IT IS DIVISIVE. IT THREATENS PITTING THE CHURCH AGAINST THE LAY PARTIES. IT POSES SENSITIVE QUESTIONS FOR DC, PCI AND PSI PARTIES. A POSSIBLE REFERENDUM IN 1976 STANDS OVER THE HEADS OF PARLIAMENT AND POLITICIANS, LIKE A SWORD OF DAMOCLES. BOTH ITS ULTIMATE RESOLUTION AND SIDE EFFECTS ON POLITICS ARE HARD TO PREDICT AT THIS STAGE, BUT ITS IMPORTANCE IS WIDELY RECOGNIZED. UNLESS CAREFULLY CONTROLLED BY THE PRINCIPAL ACTORS, THE ISSUE COULD BECOME AS EXPLOSIVE AND DISRUPTIVE AS WAS THE DIVORCE ISSUE IN 1973 AND 1974. THIS TELEGRAM REPORTS ON THE KEY ASPECTS OF THE ISSUE, THE ATTITUDES OF MAJOR ACTORS AND ASSESSES THE POLITICAL IMPLICATIONS IT POSES. END SUMMARY.

2. THE DRAFT LAW: ON DEC. 17 A JOINT COMMITTEE OF THE CHAMBER OF DEPUTIES APPROVED A BILL TO LEGALIZE ABORTION. THE PROPOSED ABORTION LAW WOULD REPLACE A LAW OF FASCIST VINTAGE. IT STRIKES DOWN PROVISION WHICH IDENTIFIES ABORTION AS A CRIME AND LEGALIZES ABORTION IN CERTAIN DEFINED CIRCUMSTANCES. THE DRAFT LAW DOES NOT, HOWEVER, PROVIDE "ABORTION ON DEMAND" AND BY SPECIFYING LEGAL

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PROCEDURES AND MEDICAL CERTIFICATES PRIOR TO ABORTION, IT DENIES

IN THE EYES OF PROPONENTS OF ABORTION LIBERALIZATION THE "SOLE RIGHT OF THE WOMAN" TO DECIDE ON ABORTION. THE BILL WAS PUT TOGETHER IN THE COMMITTEE THROUGH A VARIETY OF AD HOC PARTY COALITIONS IN THE FIRST TWO WEEKS OF DECEMBER. THE DELICATE COMPROMISES IT EMBODIES REFLECT CONSIDERABLE ASTUTENESS AND CONSULTATIONS ON THE PART OF CHRISTIAN DEMOCRATS (DC) AND THE COMMUNIST PARTY (PCI) AND THE COOPERATION OF THE LIBERALS AND REPUBLICANS. THE CHURCH, THE FAR RIGHT (MSI) AND THE SOCIALISTS ARE UNITE IN OPPOSING THE PROPOSED LAW; THE CHURCH AND THE RIGHT BECAUSE THEY OPPOSE ABORTION IN PRINCIPLE AND THE SOCIALISTS BECAUSE THE LAW IS NOT LIBERAL ENOUGH.

3.A THE BILL IS SLATED TO GO TO THE CHAMBER FOR DEBATE IN MID-JANUARY AND IF APPROVED IT WILL THEN BE CONSIDERED BY THE SENATE. UNLESS THE TACIT AND INFORMAL ALLIANCES WHICH EMERGED IN THE CHAMBER'S COMMITTEE STAGE PREVAIL AND THERE IS UNUSUALLY TIGHT COORDINATION OF PARLIAMENTARY STRATEGY, THE BILL'S FATE IS UNPREDICTABLE. VARIOUS POLITICAL FACTORS--THE PSI AND DC CONGRESSES AND THE GROWING THREAT OF A GOVERNMENT CRISIS--COULD INTRODUCE DELAYS AND COMPLICATIONS.

B. THE THREAT OF A REFERENDUM, HOWEVER, IS A STIMULUS TO PARLIAMENTARY ACTION. THIS THREAT LOOMED LARGE ON THE BILL'S CONSIDERATION DURING THE COMMITTEE STAGE. PROPONENTS OF ABORTION, LED BY THE RADICAL PARTY, DURING THE LAST YEAR COLLECTED MORE THAN 800,000 SIGNATURES (500,000 ARE REQUIRED) FOR A PETITION REQUESTING SIMPLE YES/NO REFERENDUM ON THE EXISTING ABORTION STATUTE. THE CONSTITUTIONAL COURT RULED ON DEC. 14 THAT THE REFERENDUM PETITION HAD MET ALL THE LEGAL REQUIREMENTS. THUS, IF PARLIAMENT DOES NOT PASS A NEW LAW, THE EXISTING LAW WOULD HAVE TO BE SUBMITTED TO REFERENDUM THIS COMING SPRING. ACCORDINGLY, UNLESS THE PRESIDENT DECLARES A MAXIMUM DELAY OF SIX MONTHS, IN THE ABSENCE OF A NEW LAW A REFERENDUM WOULD BE HELD SOMETIME BETWEEN APRIL 15 AND JUNE 15.

4. THE POSITIONS OF THE MAIN ACTORS

A. THE SOCIALISTS HAVE EMERGED AS THE MOST VIGOROUS PROPONENTS OF ABORTION LIBERALIZATION. IN THIS THE PSI SUPPORTS THE POSITIONS OF ORGANIZED FEMINIST GROUPS AND THE RADICAL PARTY. THEY VOTED AGAINST THE PROPOSED BILL AT THE COMMITTEE STAGE, AND HAVE

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CONDEMNED VOCIFEROUSLY THE PCI'S VOTING FOR THE BILL. SOME PSI LEADERS (E.G. NENNI) HAVE PUBLICLY SAID THAT THEY PREFER THE REFERENDUM TO THE COMPROMISE BILL AND SOME HAVE VOICED CONCERN FOR WHAT THIS POTENDS FOR PSI-DC AND PSI-PCI RELATIONSHIPS.

B. THE CATHOLIC CHURCH. THE VATICAN AND THE CHURCH HIERARCHY HAVE CONDEMNED ABORTION. THE VATICAN ORGAN "L'OSSERVATORE ROMANO," DEC. 14, AND THE ITALIAN HIERARCHY IN A DOCUMENT ISSUED DEC. 15

HAVE BRANDED ABORTION A "GRAVE CRIME" AND ANY LAW LIBERALIZING IT AS A "LICENSE TO KILL INNOCENTS". THE CHURCH HAS CALLED ON THE FAITHFUL AND CATHOLIC POLITICIANS NOT TO ABSTAIN FROM THE ISSUE AND TO ACTIVELY OPPOSE IT. THE VATICAN MAY ALSO HAVE AUTHORIZED A "PERSONAL" MEETING BETWEEN A VATICAN PRELATE--FATHER GINO DEL BONO, AN OLD FRIEND OF POPE PAUL--AND AN OFFICIAL OF THE PCI ON THE ABORTION ISSUE IN WHICH THE PRELATE REPORTEDLY URGED MODERATION ON THE COMMUNISTS.

C. THE CHRISTIAN DEMOCRATS ON THE SPOT. PROBABLY A LARGE SECTOR OF THE DC WOULD LIKE TO SEE "LIMITED" ABORTION LEGALIZED BOTH FOR HUMANITARIAN AND POLITICAL REASONS. MANY REALIZE THAT OVER A MILLION ABORTIONS ARE ILLEGALLY PERFORMED EACH YEAR UNDER UNSANITARY CONDITIONS AND AT GREAT EXPENSE. MORE IMPORTANTLY, RECALLING THE DIVORCE EXPERIENCE, THE PARTY ALSO FEARS THE POSSIBILITY OF A REFERENDUM. THUS PARTY MEMBERS PARTICIPATING IN THE JOINT COMMITTEE, WHILE OPPOSING PROPOSALS FOR ABORTION ON DEMAND, WENT ALONG WITH LIBERALIZATION PROVISIONS. THE PARTY ABSTAINED, HOWEVER, ON CERTAIN OCCASIONS RATHER THAN VOTE FOR OR AGAINST A CERTAIN ARTICLE DESPITE THE VATICAN'S DENOUNCEMENT OF "ABSTENTION". THIS WAS PARTICULARLY EVIDENT ON ARTICLE 5 OF THE BILL WHICH MAKES "THE DOCTOR" THE FINAL ARBITER ON ABORTION. THE ARTICLE WAS APPROVED BY A COALITION OF PCI/PLI/PRI AGAINST PSI/PSDI/MSI. IF THE DC HAD VOTED AGAINST IT THE BILL WOULD HAVE NOT COME OUT OF COMMITTEE. ACCORDING TO INFORMED OBSERVERS, THE DC AND PCI COLLABORATED AT MANY STAGES ON THE BILL'S CONSIDERATION AND ON SEVERAL OCCASIONS THE DC AND PCI ACTUALLY VOTED TOGETHER TO DEFEAT EXTREME PROPOSALS PUT FORTH BY THE SOCIALISTS.

D. THE COMMUNISTS AS MEDIATORS. THE PCI'S POSITION ON ABORTION IS A CONSERVATIVE ONE, WHEN COMPARED TO THE OTHER LAY PARTIES OF THE LEFT. IT OPPOSES ABORTION ON DEMAND AND CONSIDERS ABORTION NOT A NORMAL MEANS OF BIRTH CONTROL, BUT ONLY PERMISSABLE IN CONFIDENTIAL

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EXTREME CASES. DURING THE COMMITTEE STAGE, THE PCI ACTED AS THE "MEDIATOR" AMONG THE LAY PARTIES AND AS THE PRINCIPAL AGENT FOR A MODERATE BILL. ITS ACTIVE SUPPORT FOR COMPROMISE ON THE ROLE OF THE DOCTOR ON ABORTION REQUESTS MADE POSSIBLE THE APPROVAL OF THE BILL BY THE COMMITTEE. THE PARTY IS ALSO OPPOSED TO HOLDING A REFERENDUM ON ABORTION.

5. THE REFERENDUM. SO FAR, THE PCI AND DC ARE BOTH OPPOSED TO A REFERENDUM. BOTH CLAIM A DESIRE TO AVOID THE BITTERNESS OF THE EXPERIENCE OF THE MAY 1974 DIVORCE REFERENDUM. PCI OPPOSES REFERENDUM BECAUSE IT WISHES TO AVOID THE DIVISIVENESS WHICH WOULD ENSUE--FRONTAL CONFLICT WITH DC AND CHURCH WOULD DETRACT FROM ITS HOPES FOR AN EVENTUAL "HISTORIC COMPROMISE". IN THE EVENT OF A REFERENDUM, HOWEVER, THE PARTIES WILL PART WAYS. THE PCI HAS ALREADY STATED THAT IF A REFERENDUM IS HELD IT BELIEVES THAT

THE ABROGATION OF THE FASCIST-ERA LAW IS ASSURED AND IT WILL FIGHT FOR IT. THE CHURCH AND DC FEEL THAT REFERENDUM WOULD NOT RESULT IN THE LAW'S ABROGATION. BUT THEY ARE NEVERTHELESS OPPOSED TO IT. ALTHOUGH SO FAR NEITHER THE CHURCH NOR THE DC HAVE ADOPTED A FORMAL STRATEGY FOR THE EVENTUALITY OF A REFERENDUM, THERE IS STRONG POSSIBILITY THAT THEY, RATHER THAN CONFRONT THE ISSUE HEAD-ON AS IN THE 1974 DIVORCE REFERENDUM, WILL SIMPLY ASK FAITH-FULL FOLLOWERS TO ABSTAIN FROM PARTICIPATION IN REFERENDUM, HOPING THEREBY TO NULLIFY IT. THIS HOPE IS BASED ON THE REQUIREMENTS OF ART. 75 OF THE CONSTITUTION WHICH SPECIFIES THAT THE PROPOSAL SUBMITTED FOR REFERENDUM REQUIRES THE PARTICIPATION OF A MAJORITY OF ELIGIBLE VOTERS.

6. COMMENT: RECENT EVENTS HAVE DEMONSTRATED THAT THE ABORTION ISSUE CAN NO LONGER BE SHELVED AND THAT IT WILL BE SQUARELY FACED IN 1976 EITHER THROUGH PARLIAMENTARY LEGISLATION OR THROUGH A REFERENDUM. THE SHARPNESS OF THE BATTLE LINES AT THE COMMITTEE STAGE, PARTICULARLY THE ISOLATION OF THE SOCIALISTS, MAY HAVE EXACERBATED THE FRAGILITY OF THE PRESENT GOVERNMENT. DESPITE FLUIDITY OF GENERAL POLITICAL SITUATION, PRESENT INDICATIONS ARE THAT THE TWO MAJOR POLITICAL PARTIES--DC AND PCI-- WILL TACITLY COLLABORATE IN ASSURING THE PASSAGE OF LEGISLATION IN ORDER TO AVOID A REFERENDUM ON THE ISSUE. VOLPE

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